



Kentucky Labor Cabinet

LABOR WORKS

Summer Precautions

Now that summer has arrived in full force, it would seem that words of caution are well in order for those of you engaging in outside activities in relation to your jobs, or in pursuit of your favorite hobbies, or working around your homes.

Above all, make sure to stay well-hydrated by making sure to drink an ample amount of moderately-cold water or other non-sweetened liquids. Above all, avoid consuming alcoholic beverages and take frequent breaks, especially when feeling weak or over-exhausted. White or light colored clothing will be most helpful in protecting from sunburns and by using lotions with high SPF ratings.

J.R. Gray

Greetings

Secretary J.R. Gray

In our ongoing efforts to keep Kentuckians knowledgeable of what is going on within state government operations, the Kentucky Labor Cabinet is conducting seminars this summer in cities across the Commonwealth.

Some of these seminars, especially in western Kentucky, have already been conducted with great attendance and with much enthusiasm toward our efforts. At each of these seminars, time is provided for audience participation, which includes time for comments and/or questions and answers.

Topics for each seminar include, but are not limited to, employee safety and health, apprenticeship training, prevailing wage, child labor, break and lunch times, hours of work and overtime, along with other discussions on topics of interest.

We encourage you to visit our Kentucky Labor Cabinet websites to obtain the locations, dates and times of our future seminars or for further information regarding Labor Cabinet rules and regulations which apply to employers and to employees.



★ Secretary J.R. Gray ★

Seminar Schedule

July 14-15
Louisville

July 28-29
Ashland

August 11-12
Florence

September 1-2
Versailles

www.labor.ky.gov
to register



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People Helping People

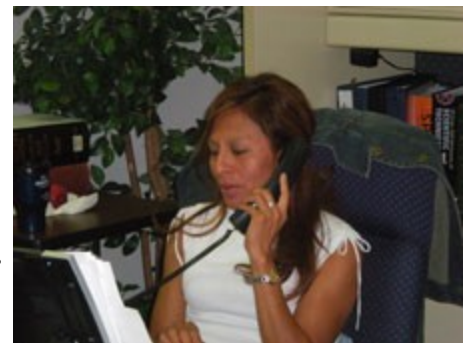
On June 1, 2010 the Kentucky Labor Cabinet at the 127 building hosted a Blood drive with a Mobile Unit from the American Red Cross. Hosting a blood drive with the ARC is a partnership where everyone wins. One of the most common reasons people don't give blood is simply because they have never been asked. The Red Cross does not need blood – patients do. Every two seconds someone in America gets a blood transfusion. Five million patients will need blood this year. Thanks to all the Cabinet members who took time to donate in the name of Robert Stucker, a long time Cabinet employee.



April Abshire

April is a first timer. When asked what prompted her to donate she stated, "She felt it was a worthy cause. I have always been interested in donating but it was never a convenient time, but with the blood mobile coming to our building, it was the perfect time." She shared that the people were very nice and answered all of her questions. Stating she was apprehensive about needles but they made her feel relaxed and explained everything before the procedure started. Stating that being a single mom she used her extra 4 hours to do errands that she had put off and then went home and rested. She wanted to add, she received a phone call about a week after donating from the ARC thanking and welcoming her into a unique family of donors. They provided her with statistics and she was shocked to learn that only a minute amount of people in the US donate each year. She stated, "It made me feel I had really contributed to society"

Dianet is new to the state government and donating blood. "Donating blood was something that I wanted to do for some time but could never find the time to do it." The Cabinet made it so much easier for us donate here on site. A mobile unit was brought out to us and the opportunity to donate on behalf of one of our co-workers made all worthier. What I found most interesting is that two weeks later, while driving with my daughter, I received a thank you call from the American Red Cross. It was a very special acknowledgement and very informative. We both listened to the phone call about the low statistics of blood donors and the greater need for blood today, not only made me realize I need to continue donating, but also to encourage others to do it as well. After we hung up, my daughter said "Mommy, I can't wait until I am 17 and can begin donating blood." As for myself, I am counting the days to donate again. You'll see me walking around with my protein shakes!



Dianet Valencia



Deanna McIntosh

Deanna has been donating for at least 30 years. This was the first time while working with state government. When asked what prompted her she stated, "because of Mr. Stucker. When I heard this was for him, I wanted to help; he is such a nice man and remembered my name the first time I met him". She went on to say, "Knowing that my blood type isn't that common, and I can help others in need." She states she received a call at 3:00 A.M. in the past when there was a horrific auto accident while living in Ohio. Because of her rare blood type, she was able to drive to the emergency room and donate for a small child. "

People Helping People



Peggy Devine

Peggy has been donating for several years. She had never donated on a mobile site and previously given at the American Legion Posts. She states, "Donating on the bus was not as bad as I had thought it would be and would recommend the one that set-up here at our location." Her motivation, "The benefit to other people in need and people that I have known (friends and family) that required blood donated. This seems to just occur to some people as they get older." She has not used her 4 hours yet. She wanted to add, "I think that it is a great thing that state government allows the 4 hours to donate blood. I have known many people that would not have given blood otherwise and some really do not realize how many people that one person, donating one time, can help. I did appreciate the opportunity to give blood here at our location. "

John stated he has donated for 25 years. He stated, "I always felt I was doing something worthwhile." He was motivated by "the need." Also, an article saying donating blood lowers the risk of stroke in men." He used his 4 hours off to get something to eat, drink and took a nap.



John Mann



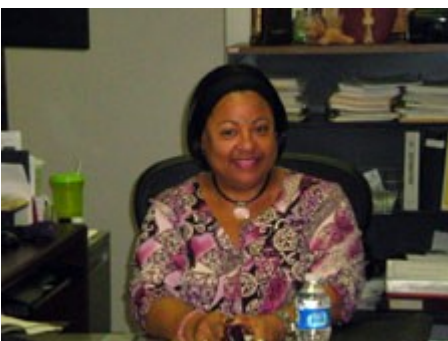
Koryn Troxell

Koryn states she has been giving for approximately 18 years. Her experience, "Great! It has given me a good feeling of helping others. Blood supplies are always low and the thought that I'm helping others." When asked how she used her 4 hours off? "Most of the time I save it for another time, doctor appointments. But there have been times I've just gone home and been lazy the rest of the afternoon." She wanted to encourage others. "Please donate. It's quick, almost painless and it saves lives!!!"

Gina says she has been donating for 6 years and has always had a pretty good experience. Her motivation, "knowing I am helping others and could possibly save someone else's life." She used her 4 hours off to go home and take a nice long nap.



Gina Searcy



Linda Carter

Linda has been giving for 20 years. She says it has been a rewarding experience. "It's the gift of life." Knowing that my blood type can be used by all people, not just one blood type. She states, "the true name of the game is in giving. I can't always give money, and most of the time money can't save a life; but the need for blood is always great."

Wage and Hour Misclassification Victories

LABOR COLLABORATING WITH INTERESTED AGENCIES TO COMBAT EMPLOYEE MISCLASSIFICATION

The Cabinet's General Counsel David Suetholz explained in the May 2010 edition of the Kentucky Employment Law Letter that a major focus for enforcement in 2010 would be the issue of "employee misclassification." Misclassification occurs when a statutory employee is paid as an independent or sub contractor. The Cabinet has taken this message on the road by organizing presentations in Paducah, Owensboro and scheduled presentations in Louisville, Lexington, Florence and Ashland.



Employee misclassification harms every member of the Commonwealth but especially the women and men who are misclassified. When a worker is "1099'd" instead of being paid as an employee, the entire tax burden falls on the worker. Instead of paying 7.65 percent of Social Security and Medicare tax, the worker must pay twice that or 15.30 percent, their contribution plus that of their employer. The worker is then responsible for his own workers' compensation plus filing with local, state and federal agencies for income or payroll tax purposes.

★ David O'Brien Suetholz ★
General Counsel

The reality is that this tax burden was never meant to be borne by the individual worker and many people who are erroneously classified cannot and do not pay them. When they are not paid the essential services of the government are underfunded.

Investigators for the Cabinet found construction contractors classifying 80-90 percent of their workforce as independent contractors. Violations of that scale result in injunctions shutting down entire projects until the violation is cured. When a worker is under the *control* of the person or entity paying him, he is an *employee* and cannot be an independent contractor.

The Labor Cabinet is now actively referring employee misclassification cases to the Kentucky Department of Revenue, the Office of Unemployment Insurance, the Department of Workers' Claims and most recently, in egregious cases, to the criminal division of the Internal Revenue Service. Both federal and state law require employers to withhold taxes when wages are paid to an employee. Moreover, wage and hour laws require accurate records of hours worked and compensation paid to be kept in the workplace.

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OSH Compliance Inspection Procedures (continued)

Walkaround Inspection

After the opening conference has been completed, the inspector and the inspection party will conduct the physical, walkaround portion of the inspection. The inspection party is usually comprised of the inspector, employer representatives and if available, employee representatives. The KOSH inspector is in charge of the inspection under 803 Kentucky Administrative Regulation (KAR) 2:110 (2) and has the authority to resolve any disputes as to whom the authorized employer and employee representatives are. Although most walkaround representatives will be employees of the employer, 803 KAR 2:110(3) allows an inspector to allow the accompaniment of a third party who is not an employee of the employer if the inspector determines the third party is essential to a thorough inspection. The inspector will also take notes during the inspection to document workplace conditions. The employer may also want to take notes during the inspection.

The inspector usually tries to start the walkaround portion of the inspection at the beginning of the manufacturing process. If the inspection is due to a complaint or a referral, the inspector will go to the location of the alleged violations. On a construction site, the inspector may start anywhere in the process. During the walkaround, the inspector will look for hazards and for violations of KOSH regulations. Kentucky Revised Statutes (KRS) 338.101 gives the Secretary's representative the authority to question employee and employer representatives privately, take photographs, review injury and illness records, take any evidence necessary to evaluate a hazard (measurements, bulk samples, monitor exposure to substances, etc.). The inspector may take noise samples, grab samples, or bulk samples (and then return to the facility to conduct more in-depth monitoring), air flow, measure heights or distances, or test for correct electrical installation.

Photos and videos will be taken to document worksite conditions.

The inspector will randomly, and privately, question employees throughout the inspection site in order to ascertain the safety and health culture of the facility. The questions may involve, but are not limited to, the employee's training, knowledge and use of personal protective equipment, the employer's response to safety and health concerns, knowledge of safety and health programs, and any other safety or health concerns the employee has. Inspections involving complaints, referrals, accidents, fatalities or follow-ups may elicit questions specific to the conditions involved. The employer is prohibited by KRS 338.121 from discharging or discriminating against any employee who filed a complaint, testified, or is about to testify, at a hearing or participated in an inspection in any way for himself or on behalf of other employees. The employer is not allowed to question any employee regarding the substance of his or her discussion with the inspector. Any employee who feels he or she has been discriminated against can file a complaint with the Division of OSH Compliance within 120 days from the date of the discriminatory action or the date on which the employee becomes aware of the discriminatory action.

Copies of this newsletter, along with statutes, regulations, statistics and any other information regarding the Kentucky Labor Cabinet can be found on our website at:
www.labor.ky.gov

The 2008 Kentucky Occupational Injury, Illness & Fatality publication is now on the Labor Cabinet web site
www.labor.ky.gov/ows/osh/educationtraining/statistics.htm



OSHA's Proposed Crane Standard

Subpart CC: Cranes and Derricks in Construction

The Occupational Safety and Health Standards Board met on Tuesday, May 4, 2010, during the 26th Annual Governor's Safety and Health Conference and Exposition. The Board considered and voted to amend Kentucky Administrative Regulations (KARs) affected by changes to Occupational Safety and Health Administration (OSHA) standards related to the hexavalent chromium standards as well as the incorporation of national consensus standards.

The amendments adopted by the Standards Board will change employer notification requirements related to exposure assessments conducted by those employers who are covered by the hexavalent chromium standard. Instead of notifying employees of those exposures above the permissible exposure limit, employers will be required to inform employees of the results of any exposure determination, regardless of whether the exposure was above the permissible exposure limit or not.

Amendments to the national consensus standards incorporated by OSHA regulations and adopted by the Board will affect several personal protective equipment standards. These amendments include updates to existing national consensus standards and deletion of references to outdated personal protection equipment requirements.

The amendments adopted by the Standards Board are currently working their way through the promulgation process and are expected to take effect in October 2010.

To stay abreast of amendments to KARs, visit RegWatch at:

<https://secure.kentucky.gov/Regwatch/>.

RegWatch is a free service that enables users to register with state government agencies to receive notification of changes to existing administrative regulations or to receive notice of newly-proposed administrative regulations. Users have the ability to register by agency, by topic, or a combination of both.

SAVE THE DATES!

***Kentucky Apprenticeship Conference
September 12-13, 2010***

***Kentucky Labor-Management Conference
September 14-16, 2010***

***Kentucky Dam Village State Resort Park
Gilbertsville, KY***

Visit labor.ky.gov for more information.



Safety Partnerships

General Electric Energy Services and Repair and employees of IUE-CWA Local 761 recently celebrated their induction into the Kentucky Labor Cabinet's Voluntary Protection Partnership STAR (VPP Star) program with a luncheon at the Hurstbourne Lane Holiday Inn June, 2010. GE Energy was officially added to the VPP program January 28, 2010. Kentucky Labor Cabinet Secretary J.R. Gray spoke and presented the management and employees of GE Energy a plaque signifying their induction into the VPP program. Also in attendance was Mr. Clay Foreman, Mayor of Jeffersontown, several corporate representatives from General Electric, Labor Cabinet representatives and representatives from the local fire services.

GE Energy Louisville and its 32 employees became the 10th active VPP Star site in Kentucky, and the 17th site in the states VPP history. GE Energy is primarily engaged in the repair and maintenance of GE industrial motor control systems and GE power generation controls. The types of controls supported include: motor drive controls, turbine controls, generator controls, and wind turbine control systems.

"As a result of the VPP process, the Louisville operation has made major safety improvements in the areas of electrical safety, employee involvement, test fixture design, training and housekeeping practices," said Gary Foster, Service Center Manager for the GE Louisville facility. "The Louisville operation had a very solid Environment, Health and Safety program already in place before beginning the VPP process—the shop has had no recordable injuries or work-related illness in over four years—but implementing the VPP process has just made a very good program even stronger and has created a more pro-active safety environment."

Because health and safety is a primary focus of GE facilities throughout the country, GE has participated in OSHA's VPP since 1987. To date, GE has 121 worksites recognized as having VPP status and ALL are VPP Star-certified, including GE's Louisville Service Center.



"Since many of our customer sites are VPP certified, our customers expect a certain level of safety certification and standards. With our VPP status, we can ensure satisfaction through safety and reliability," said Foster.



FREE

Population Center Training Schedule

Gilbertsville
July 19-23

Louisville
August 16-20

Danville
September 20-24

Owensboro
October 11-15

These training series are presented by the Labor Cabinet at NO COST to the participant. Please visit labor.ky.gov for more information.

SHARP PROGRAM



A Lexington company has received a special award for the extraordinary measures to ensure the safety and health of its employees. The Kentucky Labor Cabinet presented Ceradyne Inc., a developer and manufacturer of advanced technical ceramic products

and components for defense, industrial, nuclear power, oil and gas, solar energy, electronic, automotive/engine and medical markets, with a plaque signifying the company's certification under the Safety and Health Achievement Recognition Program (SHARP).

Labor Secretary J.R. Gray presented the award to company Corporate Vice President Jeff Waldal. "It's not easy to become SHARP-certified," said Secretary Gray. "Companies must be thoroughly assessed by Kentucky occupational safety and health consultants, have injury and illness rates below national averages for its industry, and maintain a safety and health program that involves all employees in finding and correcting existing or possible future hazards as they develop."

The injury and illness rate at Ceradyne Inc. currently is .8 percent for the Total Case Rate which is 84 percent below the national average for their industry of 5.0 Total Case Rate. Ceradyne Inc., founded in 1967, employs 113 individuals at the Lexington KY facility who strongly believe in putting safety first when it comes to their jobs. Today, the Lexington manufacturing facility became the 11th active company in Kentucky to attain SHARP certification. The U.S. Department of Labor designed SHARP to encourage and recognize excellence in occupational safety and health among employers.

Although companies must meet federal standards for the program, the Kentucky Labor Cabinet presents the award, because Kentucky has had its own federally-approved Occupational Safety and Health (OSH) program for over 20 years. Ceradyne Inc. has been working toward SHARP certification for a couple years and plans to continue improving safety at its Lexington plant facility.



SHARP certification is good for two years and then can be renewed. A company is exempted from scheduled OSH compliance inspections during the certification period.

Other companies currently having SHARP certification include: Uncle Charlie's Meats, Richmond; E.D. Bullard Co., Cynthiana; Multicorr, Inc., Louisville; Federal Mogul Maysville, Maysville; Washington Penn Plastic Co., Frankfort; Maker's Mark Co., Loretto; Hendrickson Truck & Suspension Co., Lebanon; American Woodmark, Monticello; Zappos.com Co., Shepherdsville; and Univance Inc., Winchester.



2010 Labor/Management Conference



The 33rd Kentucky Labor-Management Conference will be held September 14, 15 and 16, 2010, at Kentucky Dam Village State Resort Park, Gilbertsville, Kentucky. Established in 1977, the conference is governed by its board of directors and is co-sponsored by the Kentucky Labor Cabinet and the Kentucky Cabinet for Economic Development.

The Kentucky Labor-Management Conference serves as the centerpiece of the state's effort to promote labor-management cooperation as an enhancement to economic development. The event is away from the normal work environment and provides participants with a relaxed atmosphere that is conducive to a positive and meaningful dialogue between labor and management.

The conference begins with two days of interactive educational opportunities in which the participants are given the chance to talk directly with the presenters on a wide variety of topics that are of mutual interest to labor and management. The final day of the conference is reserved for networking activities designed to team labor and management together in a recreational setting. Over the years participants have indicated that numerous issues that could have resulted in conflict have been resolved in the relaxed atmosphere of the conference.

Each year since 1987, the conference has presented the Labor and Management Awards to a representative from labor and a representative from management, who has demonstrated a sincere commitment to the concept of labor-management cooperation. These winners have sought to find the common ground necessary to make their respective enterprises more competitive in the global marketplace through true cooperation.

Since 2007, the conference has presented the Julian M. Carroll Young Labor and Business Leader Awards to recognize excellence in young leaders who have demonstrated their commitment to the promotion of labor-management cooperation in Kentucky.

The Kentucky Labor-Management Scholarship Award was established in 2005 and awards scholarships up to \$4,000 for students who have plans to pursue a career in a labor-management relations related field or an apprenticeship occupation.



If you are be interested in attending or obtaining information concerning the 2010 Kentucky Labor-Management Conference, please visit the Labor Cabinet's web site at www.labor.ky.gov.